

Statement of Lori L. Morgan, Acting Executive Officer
State Allocation Board and the Office of Public School Construction

Testimony Before the Little Hoover Commission
May 24, 2007

Thank you for the opportunity to provide written testimony to the Little Hoover Commission regarding the governance structure of the State Allocation Board (SAB). The SAB has successfully operated for 60 years. It has been my honor to have worked for the SAB for 22 years; the last 13 years in various management capacities. Most recently, I was appointed the Deputy Executive Officer of the SAB and the Office of Public School Construction (OPSC) in June 2005 and as Acting Executive Officer of the SAB and the OPSC in latter January 2007.

The SAB and its staff – the OPSC, produces exceptional outcomes and fulfills a rewarding mission by allocating billions of dollars in state bond funds to eligible school districts primarily for the construction of new and modernization of existing school facilities. The SAB and OPSC have efficiently and effectively distributed the funds to build thousands of buildings used daily by schoolchildren throughout California. For example, since January 1999 nearly \$26 billion has been apportioned to eligible school districts under the School Facility Program. These apportionments provided new classrooms for over 1.13 million children in 3,663 new construction projects; and modernized facilities for 2.5 million children in 4,926 modernization projects. These accomplishments are unprecedented and speak to the accountability, credibility, efficiency, and service of the board and the OPSC; a reputation that has been well-deserved for decades. Most recently, the OPSC's credibility was recognized by its continuous receipt of the State Controller's Office of Excellence in Financial Reporting award, which OPSC has received every year since 2000. Further, based on the OPSC's long-standing and well-defined accountability systems, the OPSC was able to immediately comply with the Governor's Executive Order S-02-07, which outlines the criteria regarding bond accountability and a process that governs the expenditures of the bond funds.

The Commission is examining the board's governance structure, the composition of the board, its mode of operation and its interaction with the OPSC and the Department of General Services (DGS). Prior to addressing those areas of the Commission's interest, I am pleased to provide relevant background information that I hope will be helpful to the Commission.

About the State Allocation Board

The SAB was statutorily created in 1947¹ and is an administrative body that is responsible for determining the allocation of State funding (proceeds from General Obligation Bond Issues and other designated State funds) used primarily for the new construction and modernization of local public school facilities. The SAB is also charged with the administration of the Emergency Repair, Career Technical Education Facilities, Charter School Facilities, Overcrowding Relief Grant, High Performance Incentive Grant, Joint-Use, Small High School, Deferred Maintenance, and State Relocatable Classroom Programs. The SAB is the policy level body for these programs which are administered by the DGS through the OPSC. The SAB meets monthly to apportion funds to the school districts, act on special items and appeals, and adopt policies and regulations as they pertain to the programs administered under the jurisdiction of the SAB.

¹ Chapter 92, Statutes of 1947; Construction and Employment Act. This same language that specified the structure of the Board was added to the Government Code by Chapter 591, Statutes of 1959; section 15490.

History of the Staffing to the State Allocation Board

From 1947 to 1965, the law² specified that the Director of Finance “shall provide such assistance to the board as it may require.” With the creation of the DGS in 1963, the position of Local Assistance Officer was established in the Government Code³. It was not until 1965 when the Government Code was amended⁴ to replace the Director of Finance with the Director of General Services, for purposes of providing assistance to the board. In 1987, the Government Code was amended⁵ to specify that the board may appoint an employee to report directly to the board as assistant executive officer. An organizational chart of the board’s current staffing can be located within this document, labeled as Exhibit 1.

About the Office of Public School Construction

The OPSC, as staff to the State Allocation Board, implements and administers the School Facility Program and other programs of the SAB. The OPSC is also charged with the responsibility of verifying that all applicant school districts meet specific criteria based on the type of funding which is being requested. The OPSC also prepares recommendations for the SAB's review and approval.

It is also incumbent on the OPSC staff to prepare regulations, policies and procedures which carry out the mandates of the SAB, and to work with school districts to assist them throughout the application process. The OPSC is responsible for ensuring that funds are disbursed properly and in accordance with the laws, regulations, and decisions made by the SAB.

The SAB meeting notice and agenda, prepared by the OPSC, informs the board members, school districts, staff, and interested parties of all topics to be discussed at the monthly SAB meeting. After the SAB meeting, all actions taken by the SAB are recorded in the minutes of the board meeting which then serve as the underlying source document used by the State Controller's Office for the appropriate release of funds. The minutes further provide a "historical record" of all SAB actions, and are used by school districts, facilities planners, architects, consultants and others wishing to track the progress of specific projects and/or the availability of funds.

Office of Public School Construction Mission Statement

As staff to the State Allocation Board, the Office of Public School Construction facilitates the processing of school applications and makes funding available to qualifying school districts. These actions enable school districts to build safe and adequate school facilities for their children in an expeditious and cost-effective manner.

² Chapter 92, Statutes of 1947; Construction and Employment Act. This same language that specified the structure of the Board was added to the Government Code by Chapter 591, Statutes of 1959; section 15490.

³ Established in 1963 in Government Code section 12920 (now Govt. Code section 14620). The OPSC was formerly known as the Office of Local Assistance. The section was amended in 1994 to rename the position as executive officer of the Office of Public School Construction (Chapter 1228, Statutes of 1994).

⁴ Government Code Section 15490 was amended by Chapter 371, Statutes of 1965.

⁵ Government Code Section 15490 was amended by Chapter 1223, Statutes of 1987.

Governance Structure

Current Structure

The OPSC is an entity within the Department of General Services that serves as staff to the SAB. The Executive Officer of the OPSC is a statutorily created position, established in 1963 (formerly known as the Local Assistance Officer), that is appointed by the Governor and is subsequently appointed Executive Officer of the SAB by resolution of the SAB. The Executive Officer of the OPSC reports to the General Services Director, who pursuant to statute, administers the programs of the SAB and provides assistance to the board as the board requires. The executive officers of the SAB consult monthly with the chair and vice-chair of the SAB when scheduling significant items for consideration by the SAB. The Executive Officer also responds to SAB related issues, district-related issues, staff issues, and has the ultimate responsibility for items that are presented to the board.

The Deputy Executive Officer is appointed by the Executive Officer of the SAB/OPSC. The Deputy Executive Officer is granted, through a resolution approved by the SAB, the authority to perform all functions delegated to the Executive Officer, including but not limited to the authority to sign contracts authorized by the SAB and the authority to file regulations on behalf of the SAB.

The Assistant Executive Officer is authorized by statute and is appointed by the SAB. The Assistant Executive Officer currently serves as the chair of the SAB Implementation Committee; an informal advisory body established by the OPSC. The Assistant Executive Officer provides input as the OPSC develops the regulations to implement statutory programs.

Comments on Structure

The SAB is the policy level body responsible for determining the allocation of State funding (proceeds from General Obligation Bond Issues and other designated State funds) used primarily for the new construction and modernization of local public school facilities and is also charged with the administration of other programs referenced above. The Executive Officer of the SAB/OPSC reports to the Director of General Services, as provided in statute, but also to each and every board member. The Executive and Deputy Executive Officers take an immense amount of pride in serving all board members (legislative and administrative alike) with equity, integrity, dedication, and commitment. Statute provides that the OPSC is the staff to the SAB and that the OPSC is responsible for the administration of the board's programs. The incumbent is the Executive Officer both to the SAB and its staff - the OPSC. The authorizing statutes, chain of command and accountability are clearly understood and followed.

The position of the Assistant Executive Officer was created in support of Senator Leroy F. Greene and his long-term interest in and dedication to the State School Building Aid Programs. This was done in an era before term limits and when Senator Greene preeminently addressed school facilities issues. The position largely served the Senator's legislative needs. The position's duties and the position's chain of command are not well-defined in statute. The Assistant Executive Officer does not report to any one position/person. It may be helpful to

have this position report directly to the SAB chair. Having worked for the SAB/OPSC over the past 22 years, I have worked with all three of the different assistant executive officers and have seen, at times, that these ambiguities can cause confusion and an inherent potential for conflict, which is or can be counterproductive to successfully administering the SAB's programs.

When considering having an executive officer report directly to the SAB, principles of governance relating to the separation of powers should be evaluated.

Board Composition

Given the two distinct roles of the policy makers and the executive branch as referenced just above, it appears that the governing board's composition would primarily include administrative representatives and/or appointees with an appropriate balance of legislative representatives for oversight.

Rules of Operation and Chair of the State Allocation Board

Rules of Operation

The State Allocation Board is a multimember "state body" for purposes of the Bagley-Keene Open Meeting Act⁶ and is subject to the rules and operating requirements of that Act.

The California Constitution⁷ authorizes the legislative members who meet with the State Allocation Board to have equal rights and duties with the nonlegislative members to vote and act upon matters pending or coming before the board for the allocation and apportionment of funds to school districts for school construction purposes or purposes related thereto.

While the board has not adopted any formal rules of order such as Roberts Rules of Order, legislative rules of procedure, or Mason Rules, the board has adopted quorum and voting rules in regulation⁸; these specify that any six members shall constitute a quorum, and a vote of at least six members is required for all decisions or actions by the board which expressly pertain to the apportionment or allocation of funds for the purpose of school construction and related purposes. In essence, the board uses common law rules which have served its purpose well as members defer to the chair throughout the course of its meeting regarding questions, concerns and matters of discussion, which allow the meetings to run in an organized fashion with full participation by all members. The SAB's "rules of operation" appear well-established, and the meetings have been successfully conducted for 60 years.

⁶ Government Code section 11120 et seq.

⁷ Article XVI, Section 1 of the California Constitution.

⁸ Title 2, Regulation Section 1555, California Code of Regulations.

Chair of the State Allocation Board

The Director of the Department of Finance (DOF) or their designee has been the chair of the SAB by tradition since 1947 when the State Allocation Board was established. In addition between 1947 and 1965, the DOF was responsible per law to provide such assistance to the SAB as it may require, or in other words, staffing for the SAB. That fact, together with the DOF's role of promoting responsible resource allocation and ensuring the financial integrity of the state, appears to have made the DOF Director (or their designee) the logical choice to be the chair of the SAB. This tradition has served the public of California well as evidenced by the accomplishments, as referenced above, of the SAB's programs administered by its staff - the OPSC. An additional system of checks and balances was instituted when the board established the position of SAB vice-chair to support the chair of the board. The SAB established the position at its March 22, 2006 meeting. During the discussion at its March meeting, the Board considered rotating the position of chair and opted not to do so. Rather, the Board chose to keep the DOF as the designated chair of the Board and established a vice-chair position. The board's approval provided that the vice-chair would be a legislative member of the board, would be nominated and elected with approval by the majority of the quorum of the board, and that the duration of the vice-chair term would be at the will of the board.

Fiscal Relationship Between the SAB and the State

The budget process for an independent board would be identical to the process the OPSC goes through today. Both entities must go through the rigorous review and approval process of the Department of Finance followed by legislative review and approval. In fact, the support of a department under an agency, as a Cabinet Member, is helpful to meet the needs of an office.

Currently, approximately 7.3 percent of the operating budget for the OPSC goes to the DGS for support functions, such as human resources/personnel functions that supports hiring, personnel testing and training, management of payroll, fiscal services, technology services, legislation, and workers' compensation. The amount budgeted is based on actual data from previous years and is based on the number of DGS staff hours used for the various functions on behalf of the OPSC. If the OPSC was independent of the DGS, we would likely have to enter into a contractual relationship to have our necessary services provided. Further, there is currently departmental continuity considering both the OPSC and the Division of the State Architect, both integral state agencies in the school facilities industry, are within the DGS.

In closing, I appreciate and thank the Commission for this opportunity to respectfully provide this information, which I hope will prove useful to them.

Exhibit 1

State Allocation Board

